

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 24.04.2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

Crl.R.C.No.1542 of 2003

and

Crl.M.P.No.9491 of 2003

Ranagasamy alias Duraisamy .. Revision Petitioner
vs.
Lakshmi Ammal ... Respondent

Prayer: This revision has been preferred against the order dated 20.08.2003 made in M.C.No.3 of 2001 on the file of the Judicial Magistrate, Sathyamangalam.

For Petitioner : Mr.J.Pothiraj
For Respondent : Mr.R.Nirmala

ORDER

This revision has been preferred against the order passed in M.C.No.3 of 2001 on the file of the Judicial Magistrate, Sathyamangalam.

2. The short facts of the case relevant for the purpose of deciding this revision are as follows:-

The respondent/wife has filed a petition under Section 125 of Cr.P.C., for maintenance from the revision petitioner, who is none other than the husband. The marriage between the revision petitioner and the respondent took place some 35 years back. Out of the wedlock the respondent herein Lakshmi Ammal had given birth to a son Manogaran @ Subramaniam and a daughter by name Senthamarai. Both the revision petitioner and the respondent led a happy family life for about 15 years. Subsequently the revision petitioner has developed illicit intimacy with one Chennammal, which necessitated the respondent/wife to leave the matrimonial home in the year 1994 and began to live with her parents. Thereafter, the revision petitioner began to live with Chennammal. Due to the cruelty met at the hands of the revision petitioner the respondent's daughter committed suicide. A civil suit was filed by the revision petitioner in O.S.No.44 of 2000 before the District Munsif, Sathayamangalam from restraining the respondent and her son not to enter into the immovable properties of the revision petitioner. The respondent has also filed a suit for maintenance before the Subordinate Court, Gopichettipalayam. So

far the revision petitioner has not paid even a paisae towards the maintenance of the respondent.

3. The husband/revision petitioner herein in his counter in M.C.No.3 of 2001 would contend that his wife/respondent herein (petitioner in M.C.No.3 of 2001) is having independent income and that she left the matrimonial home due to her own volition and even though the revision petitioner has made several attempts to bring back her, the same ended in futile. A criminal complaint filed against the revision petitioner by the wife/respondent herein under Section 494 of Cr.P.C., was also dismissed and that the wife had deserted him some 25 years back and they are living separately thereafter.

4. The revision petitioner would contend that there cannot be two cases for maintenance. According to the wife the petitioner is doing agriculture and he is getting Rs.1,00,000/- per year from out of the agricultural operation and has also deposited Rs.50,000/- in the bank and in his business he is getting Rs.1,00,000/- income per year and she has filed the maintenance application claiming Rs.500/- from her husband towards maintenance.

5. Before the trial Court the petitioner-Lakshmi Ammal has examined herself as P.W.1 and respondent/revision petitioner herein has examined himself as R.W.1 besides examining one Chinnathima Naicker as R.W.2. On the side of the petitioner/wife Ex.P.1 to Ex.P.5 were marked. The respondent/husband has not marked any documentary evidence on his side.

6. After going through the available evidence both oral and documentary, the learned trial judge has come to a conclusion that the petitioner/wife is entitled to get a monthly maintenance of Rs.500/- towards her maintenance and accordingly, allowed the petition directing the respondent/husband to pay a monthly maintenance of Rs.500/- to his wife viz. petitioner in M.C.No.3/2001. Aggrieved by the findings of the learned trial Judge, the husband/respondent in M.C.No.3/2001 has preferred this revision.

7. Now the point for determination in this revision is whether the findings of the learned trial Judge in M.C.No.3 of 2001 is liable to be set aside for the reasons stated in the grounds of memorandum of revision?

8. The Point:- The learned counsel appearing for the revision petitioner would contend that there cannot be two maintenance applications seeking maintenance from the husband. No doubt it has been admitted by the wife/petitioner in M.C.No.3/2001 that she had filed a suit for maintenance in O.S.No.121 of 2000 before the Subordinate Judge, Gopichettipalayam and the same is still pending. Section 125 of Cr.P.C., is provided under the Act to enable the victims to get speedy redressal. Even in her evidence the wife, as P.W.1, has deposed before the trial Court that in order to get a speedy redressal she has resorted the aid of

the criminal Court under Section 125 of Cr.P.C. The fact that the wife has approached the criminal Court under Section 125 of Cr.P.C., at a belated stage is not a ground to reject the application for maintenance. According to the petitioner in M.C.3/2001 (wife), the respondent/husband is in an affluent circumstance. According to her, he is owning agricultural land to an extent of 5 acres. The revision petitioner/husband has admitted that he is owning 1 acres 3 cents of land besides a house. The reason for leaving the matrimonial home by the wife is that the husband developed illicit intimacy with one Chennammal and it is the definite case of the wife that when she left the matrimonial home, the husband had brought Chennammal to the house and he is now living in adultery. Taking into consideration of the merits and demerits of the petitioner, the learned trial judge has awarded only a minimum amount of Rs.500/- per month towards maintenance of the wife/respondent herein. I do not find any reason to interfere with the well considered order of the trial judge in awarding maintenance to the wife. Point is answered accordingly.

9. In fine, the revision fails and the same is dismissed with costs, confirming the order in M.C.No.3 of 2001 on the file of the Judicial Magistrate, Santhyamangalm. The costs is fixed as Rs.2000/-. Connected CrI.M.P.No.9491 of 2003 is closed.

Sd/-

Asst. Registrar.

/true copy/

Sub Asst. Registrar.

SSV

To

1. The Judicial Magistrate,
Sathyamangalam.

2. The Chief Judicial Magistrate,
Erode.

+ 1 CC To Mr. E.C.Vasudevan, Advocate SR NO.28233

CrI.R.C.No.1542 of 2003

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Gp/8.5.